UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,499	04/09/2004	James D. Webb	P0011232.00	1416

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EXAMINER
COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
03/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/821,499	WEBB ET AL.
	Examiner	Art Unit
	DILEK B. COBANOGLU	3626

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

THE REPLY FILED 05 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

     a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

     b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

         Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

     (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

     (b)☐ They raise the issue of new matter (see NOTE below);

     (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

     (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

         NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

     The status of the claim(s) is (or will be) as follows:

     Claim(s) allowed: *none*.

     Claim(s) objected to: *none*.

     Claim(s) rejected: *1 and 4-20*.

     Claim(s) withdrawn from consideration: *none*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

     See continuation sheet.

12. ☐ Note the attached Information *Disclosure* Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

                         /D. B. C./
                         Examiner, Art Unit 3626

Continuation of 3: The proposed amendments change the recitaiton of "translation web services" and including "wherein translation web service is further configured to receive a request lbr one o[the plurality of output ~brmats from an invoking application, and the output method is configured to return the medical data to an the invoking application in the requested output format." and these canges to independent claims 1, 19 and 20 require further search and consideration.

Continuation of 11: In response to Applicant's argument about Trusheim does not teach a plurality of output formats and translator 31 is not a web service" Examiner respectfully submits that Trusheim teaches a web server (50) in col. 11, line 24-26, which is in communication with a translator (31) (fig. 11). Trusheim teaches "The translator translates source data files 30 into a common format for use in the present invention. In a preferred embodiment, translator 31 consists of two elements. The first element is a translation program, such as Mercator.RTM, which receives a data file having a first format and translates the data file into an output file having a second format. The second element consists of maps used by the translation program to translate data files from the first format to the second format." In col. 8, lines 1-15. Examiner notes that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, and then it meets the claim. The translator of Trusheim translates data files from one format to another; therefore the structure is able to provide a requested output format.

In response to Applicant's argument about it would not have been obvious to one of ordinary skill in the art to combine Nelson, Stawikowski and Trusheim; Examiner respectfully submits that Nelson teaches "…data can be interrogated, with the aid of a remote interrogator device, by an IMDNI in an emergency room and then uploaded to an information network to which a remote interrogator is connected. This information network may be according to any network protocol, for example, TCP/IP over the Internet." (Nelson; col. 8, lines 10-16), Stawikowski teaches "…a communication system on an IP network (50) between an automation equipment (10) and one or more remote devices (30). ... The automation equipment (10) comprises at least one WEB service (21) and/or one WEB client (22) able to interact with a program (20) of the automation equipment (10), capable of decoding messages received (51, 54) from the IP network (50) encoded according to the SOAP protocol and capable of encoding messages to be sent (52, 53) according to the SOAP protocol." (Stawikowski; abstract), and Trusheim teaches "…translator 31 consists of two elements. The first element is a translation program, such as Mercator.RTM., which receives a data file having a first format and translates the data file into an output file having a second format. " in col. 8, lines 1-15. The motivation to combine these references are provided in the previous office action.